

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Gordon G. Erwin )  
Dist. 19, Map 68H, Group F, Control Map 68H, Parcel 13.00 ) Blount County  
Residential Property )  
Tax Year 2006 )

## INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$30,000	\$161,200	\$191,200	\$47,800

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 14, 2006 in Maryville, Tennessee. In attendance at the hearing were Gordon Erwin, the appellant, Mike Morton, Blount County Assessor, and staff appraiser David Easter.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a residence located in a planned unit development located at 3907 Spyglass Drive in Maryville, Tennessee.

The taxpayer contended that subject property should be valued at \$185,400. In support of this position, the taxpayer testified that he purchased subject property on September 28, 2005 for \$185,400. In addition, the taxpayer asserted that subject property experiences a loss in value because of a water problem in the backyard, poor quality construction and neighborhood deterioration.

The assessor contended that subject property should be valued at \$191,200. In support of this position, the testimony and analysis of Mr. Easter was offered into evidence. Mr. Easter introduced the November 28, 2005 sale of a home at 3942 Doral Drive for \$188,703 in support of the current appraisal of subject property. Mr. Easter maintained that property values had been increasing as of January 1, 2006 as evidenced by the September 19, 2006 sale of the home at 3934 Doral Drive for \$198,900.

Mr. Easter also took issue with Mr. Erwin's assertion that this purchase of subject property was indicative of market value. Mr. Easter testified that the seller had purchased the property on September 1, 2005 for \$189,500 and sold it some twenty-seven (27) days later due to family pressure.



The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$191,200 in accordance with Mr. Easter's analysis.

Since the taxpayer is appealing from the determination of the Blount County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2006 constitutes the relevant issue. Respectfully, the administrative judge finds that the taxpayer's September 28, 2005 purchase of subject property for \$185,400 cannot provide a basis of valuation.

The administrative judge finds that one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds Mr. Erwin's testimony supports Mr. Easter's assertion that the seller was under duress. In particular, the administrative judge finds Mr. Erwin testified that "the lady was in a rush to sell."

The administrative judge finds that both the seller's prior purchase of subject property for \$189,500 and the November 28, 2005 sale of the home at 3942 Doral Drive for \$188,703 indicate the taxpayer was able to purchase subject property at a discount. Moreover, Mr. Erwin testified that around the time of his purchase the developer had increased the price for similar units from \$179,000 to \$189,000. Finally, since January 1, 2006 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a), the foregoing sales would have to be adjusted for time. Given the September 19, 2006 sale of the home at 3934 Doral Drive for \$198,900, the current appraisal of \$191,200 appears reasonable as of January 1, 2006.

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative



judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . . was too high. In support of that position, she claimed that. . . the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$30,000	\$161,200	\$191,200	\$47,800

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization.

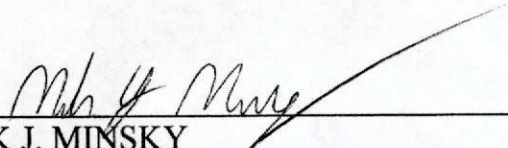


Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of November, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Gordon G. Erwin  
Mike Morton, Assessor of Property